

ASSEMBLY, No. 3177

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires creditors to maintain interior of vacant and abandoned residential property under foreclosure.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT requiring creditors to maintain the interior of vacant and
2 abandoned residential property under foreclosure and amending
3 P.L.2014, c.35 and P.L.2008, c.127.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2014, c.35 (C.40:48-2.12s) is amended to
9 read as follows:

10 1. a. The governing body of any municipality may adopt
11 ordinances to regulate the care, maintenance, security, and upkeep
12 of **the exterior of** vacant and abandoned residential properties on
13 which a summons and complaint in an action to foreclose has been
14 filed.

15 b. (1) An ordinance adopted pursuant to subsection a. of this
16 section shall provide that the creditor filing the summons and
17 complaint in an action to foreclose shall be responsible for the care,
18 maintenance, security, and upkeep of **the exterior of** the vacant
19 and abandoned residential property, and if located out-of-State,
20 shall be responsible for appointing an in-State representative or
21 agent to act for the foreclosing creditor.

22 (2) An ordinance adopted pursuant to subsection a. of this
23 section shall authorize a public officer, appointed pursuant to
24 P.L.1942, c.112 (C.40:48-2.3 et seq.), or any other local official
25 responsible for administration of any property maintenance or
26 public nuisance code to issue a notice to the creditor filing the
27 summons and complaint in an action to foreclose, if the public
28 officer or other authorized municipal official determines that the
29 creditor has violated the ordinance by failing to provide for the
30 care, maintenance, security, and upkeep of **the exterior of** the
31 property. Such notice shall require the person or entity to correct
32 the violation within 30 days of receipt of the notice, or within 10
33 days of receipt of the notice if the violation presents an imminent
34 threat to public health and safety; provided, however, that such
35 deadline may be extended if a court order is required to enter a
36 property to correct an interior violation. The issuance of a notice
37 pursuant to this paragraph shall constitute proof that a property is
38 "vacant and abandoned" for the purposes of section 1 of P.L.2012,
39 c.70 (C.2A:50-73).

40 (3) An ordinance adopted pursuant to subsection a. of this
41 section shall provide that an out-of-State creditor shall include the
42 full name and contact information of the in-State representative or
43 agent, and any other person or entity retained by the creditor or a
44 representative of the creditor, in the notice required to be provided

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008,
2 c.127 (C.46:10B-51).

3 c. (1) An out-of-State creditor subject to an ordinance adopted
4 pursuant to subsection a. of this section found by the municipal
5 court of the municipality in which the property subject to the
6 ordinance is located, or by any other court of competent
7 jurisdiction, to be in violation of the requirement to appoint an in-
8 State representative or agent pursuant to the ordinance shall be
9 subject to a fine of \$2,500 for each day of the violation. Any fines
10 imposed on a creditor for the failure to appoint an in-State
11 representative or agent shall commence on the day after the 10-day
12 period set forth in paragraph (1) of subsection a. of section 17 of
13 P.L.2008, c.127 (C.46:10B-51) for providing notice to the
14 municipal clerk that a summons and complaint in an action to
15 foreclose on a mortgage has been served.

16 (2) A creditor subject to an ordinance adopted pursuant to
17 subsection a. of this section found by the municipal court of the
18 municipality in which the property subject to the ordinance is
19 located, or by any other court of competent jurisdiction, to be in
20 violation of the requirement to correct a care, maintenance, security,
21 or upkeep violation cited in a notice issued pursuant to the
22 ordinance shall be subject to a fine of \$1,500 for each day of the
23 violation. Any fines imposed pursuant to this paragraph shall
24 commence 31 days following receipt of the notice, except if the
25 violation presents an imminent risk to public health and safety, in
26 which case any fines shall commence 11 days following receipt of
27 the notice; provided, however, that if a court order is required to
28 enter a property to correct an interior violation, any fines imposed
29 pursuant to this paragraph shall commence 31 days following
30 receipt of the court order, except if the violation presents an
31 imminent risk to public health and safety, in which case any fines
32 shall commence 11 days following receipt of the court order.

33 d. No less than 20 percent of any money collected pursuant to
34 subsection a. of this section shall be utilized by the municipality for
35 municipal code enforcement purposes.

36 (cf: P.L.2019, c.66, s.1)

37

38 2. Section 17 of P.L.2008, c.127 (C.46:10B-51) is amended to
39 read as follows:

40 17. a. (1) A creditor serving a summons and complaint in an
41 action to foreclose on a mortgage on residential property in this
42 State shall, within 10 days of serving the summons and complaint,
43 notify the municipal clerk and the mayor or other chief executive
44 officer of the municipality in which the property is located that a
45 summons and complaint in an action to foreclose on a mortgage has
46 been filed against the subject property. The notice shall contain the
47 full name, address, and telephone number for the representative of
48 the creditor who is responsible for receiving complaints of property

1 maintenance and code violations and the full name and contact
2 information for any person or entity retained by the creditor or a
3 representative of the creditor to be responsible for any care,
4 maintenance, security or upkeep of the property. The notice may
5 contain information about more than one property, and shall be
6 provided by mail or electronic communication, at the discretion of
7 the municipal clerk. In the event the creditor that has served a
8 summons and complaint in an action to foreclose on a residential
9 property is located out-of-State, the notice shall also contain the full
10 name, address, and telephone number of an in-State representative
11 or agent who shall be responsible for the care, maintenance,
12 security, and upkeep of [the exterior of] the property if it becomes
13 vacant and abandoned. If the municipality has appointed a public
14 officer pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), the
15 municipal clerk shall forward a copy of the notice to the public
16 officer or shall otherwise provide it to any other local official
17 responsible for administration of any property maintenance or
18 public nuisance code.

19 In the event that the property being foreclosed on is an
20 affordable unit pursuant to the "Fair Housing Act," P.L.1985, c.222
21 (C.52:27D-301 et al.), then the creditor shall identify that the
22 property is subject to the "Fair Housing Act."

23 The notice shall also include the street address, lot and block
24 number of the property, and the full name, address, and telephone
25 number of an individual located within the State who is authorized
26 to accept service on behalf of the creditor. The notice shall be
27 provided to the municipal clerk and the mayor or other chief
28 executive officer within 10 days of service of a summons and
29 complaint in an action to foreclose on a mortgage against the
30 subject property.

31 If there is any change in the name, address, or telephone number
32 for a representative, agent, or individual authorized to accept
33 service on behalf of a creditor required to be provided in a notice
34 pursuant to this paragraph following the filing of the summons and
35 complaint, the creditor shall provide a notice to the applicable
36 municipal clerk containing the updated name, address, or telephone
37 number within 10 days of the change in that information.

38 (2) Within 30 days following the effective date of P.L.2009,
39 c.296 (C.2A:50-69 et al.), any creditor that has initiated a
40 foreclosure proceeding on any residential property which is pending
41 in Superior Court shall provide to the municipal clerk of the
42 municipality in which the property is located, a listing of all
43 residential properties in the municipality for which the creditor has
44 foreclosure actions pending by street address and lot and block
45 number. If the municipality has appointed a public officer pursuant
46 to P.L.1942, c.112 (C.40:48-2.3 et seq.), the municipal clerk shall
47 forward a copy of the notice to the public officer, or shall otherwise

1 provide it to any other local official responsible for administration
2 of any property maintenance or public nuisance code.

3 b. If the owner of a residential property vacates or abandons
4 any property on which a foreclosure proceeding has been initiated
5 or if a residential property becomes vacant at any point subsequent
6 to the creditor's filing the summons and complaint in an action to
7 foreclose on a mortgage against the subject property, but prior to
8 vesting of title in the creditor or any other third party, and [the
9 exterior of] the property is found to be a nuisance or in violation of
10 any applicable State or local code, the local public officer,
11 municipal clerk, or other authorized municipal official shall notify
12 the creditor or the representative or agent of an out-of-State
13 creditor, as applicable, which shall have the responsibility to abate
14 the nuisance or correct the violation in the same manner and to the
15 same extent as the title owner of the property, to such standard or
16 specification as may be required by State law or municipal
17 ordinance. The municipality shall include a description of the
18 conditions that gave rise to the violation with the notice of violation
19 and shall provide a period of not less than 30 days from the
20 creditor's receipt of the notice for the creditor to remedy the
21 violation, which time period may be extended if a court order is
22 required to enter a property to correct an interior violation. If the
23 creditor fails to remedy the violation within that time period, the
24 municipality may impose penalties allowed for the violation of
25 municipal ordinances pursuant to R.S.40:49-5; provided, however,
26 that if a court order is required to enter a property to correct an
27 interior violation, any fines imposed pursuant to this subsection
28 shall commence not less than 31 days following receipt of the court
29 order.

30 c. If the municipality expends public funds in order to abate a
31 nuisance or correct a violation on a residential property in situations
32 in which the creditor was given notice pursuant to the provisions of
33 subsection b. of this section but failed to abate the nuisance or
34 correct the violation as directed, the municipality shall have the
35 same recourse against the creditor as it would have against the title
36 owner of the property, including but not limited to the recourse
37 provided under section 23 of P.L.2003, c.210 (C.55:19-100).

38 d. A creditor that institutes a foreclosure proceeding on
39 residential property pursuant to the "Fair Foreclosure Act,"
40 P.L.1995, c.244 (C.2A:50-53 et seq.), shall file with the summons
41 and complaint in Superior Court, and with the lis pendens filed with
42 the office of the county clerk or register of deeds and mortgages,
43 the following information:

44 (1) the full name, address, and telephone number for the
45 representative of the creditor and any servicer who is responsible
46 for receiving complaints of property maintenance and code
47 violations pursuant to subsection b. of this section;

1 (2) if the creditor or servicer is located out-of-State, the full
2 name, address, and telephone number of an in-State representative
3 or agent who shall be responsible for the care, maintenance,
4 security, and upkeep of the property if it becomes vacant and
5 abandoned ; and

6 (3) if there is any change in the information required to be filed
7 pursuant to paragraph (1) or (2) of this subsection following the
8 filing of the summons and complaint or the lis pendens, the updated
9 name, address, or telephone number, to be filed with the Superior
10 Court, the office of the county clerk or register of deeds and
11 mortgages, and all other parties, within 10 days of the change in
12 that information.

13 (cf: P.L.2019, c.66, s.2)

14
15 3. This act shall take effect immediately.

16
17
18 STATEMENT

19
20 This bill would require creditors to maintain the interior of
21 vacant and abandoned residential property under foreclosure.
22 Current law only requires creditors to maintain the exterior of
23 vacant and abandoned residential property under foreclosure. The
24 interiors of vacant and abandoned residential properties present a
25 host of serious maintenance issues to neighbors. For instance,
26 mold, vermin, and fire hazards can easily affect neighbors,
27 particularly in the case of attached housing. This bill would extend
28 creditors' responsibility to maintain vacant and abandoned
29 residential property under foreclosure to include the interior of such
30 property in order to protect neighbors and to prevent municipalities
31 from bearing such maintenance costs.

32 The bill would also allow municipalities to adopt ordinances
33 providing for a fine of \$1,500 for each day a maintenance violation
34 concerning the interior of a vacant and abandoned residential
35 property under foreclosure goes uncorrected following a 30-day
36 window to correct, or a 10-day window to correct in the case of an
37 imminent threat to public health and safety. Current law only
38 allows municipalities to adopt ordinances providing for such
39 penalties with respect to the exterior of vacant and abandoned
40 residential property under foreclosure.

41 Under the bill, the deadlines for correcting interior violations
42 may be extended if a court order is needed to enter a property to
43 make such corrections.